

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,  
Plaintiff,  
  
v.  
  
DEANTE TERRANCE KINCAID,  
Defendant.

Case No. 13-cr-00818-PJH-2

**ORDER RE RULE 60 MOTION**

Re: Dkt. No. 480

Defendant in the above-captioned case has filed a pro se motion styled as a Rule 60(b) motion. See Dkt. 480. The motion appears to seek a ruling regarding defendant's right to seek compassionate release under 18 U.S.C. § 3582(c). However, the motion does not actually purport to seek compassionate release, as it sets forth no basis why compassionate release should be granted.

The court further notes that the government has not yet taken the position in this case that defendant did indeed waive his right to seek compassionate release under section 3582.

If defendant files a motion for compassionate release, and if the government then objects on the grounds that he waived the right to do so, then, at that time, defendant can argue that the waiver is unconstitutional and should not be enforced. However, as of now, no such objection by the government has been made.

For those reasons, the court finds that defendant's motion is not yet ripe, and thus DENIES it without prejudice.

**IT IS SO ORDERED.**

Dated: October 18, 2021

/s/ Phyllis J. Hamilton  
PHYLLIS J. HAMILTON  
United States District Judge